

### **REMARKS/ARGUMENTS**

Applicant thanks the Examiner for his careful review of this application. Claims 1-3, 7-10, 14-17, and 21-24 have been rejected. Claims 1, 8, and 15 have been amended. Claims 25 and 26 have been added. The newly added and amended claims are fully supported by the specification. No new matter is presented by these claims. Applicant has carefully reviewed the prior art of record and believes that the newly added claims are patentable in view of the prior art. Applicant respectfully requests reconsideration of the application in view of the above amendments and the following remarks submitted in support thereof.

#### **Anticipation Rejections under 35 U.S.C. §102(e)**

The Examiner has rejected claims 1, 3, 7, 8, 10, 14, 15, 17 and 21-24 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,848,106 to Hipp. For the reasons set forth below, Applicant respectfully asserts that Hipp fails to identically disclose each and every feature specified in amended independent claims 1, 8, and 15.

Although the Applicant believes that the original pending claims are defined over the prior art of record, the Applicant has amended independent claims 1, 8, and 15 to further clarify the compute capsule. As amended, independent claims 1 and 8 further define the compute capsule as being configured to provide an encapsulated form that is independent of an environment of a host system. Additionally, independent claim 15 further defines the compute capsule as being configured to provide an encapsulated form that is capable of being moved between computers without restriction. As noted by the Applicant during an interview with the Examiner on March 30, 2005, Hipp teaches that "[t]he computer on which a process is restored on *must be identically configured* and have an *identical environment* (hardware, software, and files) that matches the environment of the computer where the

process was snapshotted” (col. 3, lines 49-53). Accordingly, Hipp restricts the snapshots to be restored only on identical environments. Thus, the snapshots are dependent on the computer environment. In contrast, amended independent claims 1 and 8 define the compute capsule being independent of a host system’s environment. Thus, as defined in amended independent claim 15, the compute capsule is capable of being moved between computers without restriction. Accordingly, Hipp cannot be considered to teach the compute capsule being configured to provide an encapsulated form that is independent of an environment of a host system or capable of being moved between computers without restriction, as defined in amended independent claims 1, 8, and 15.

As Hipp fails to teach each and every element of the claimed invention, the Applicant respectfully submits that amended independent claims 1, 8, and 15 are patentable under 35 U.S.C. § 102(e) over Hipp. Further, dependent claims 3, 7, 10, 14, 17, and 21-24, each of which directly or indirectly depends from amended independent claims 1, 8, and 15 are submitted to be patentable under 35 U.S.C. § 102(e) over Hipp for the reasons set forth above. Accordingly, the Applicant respectfully requests the Examiner to withdraw the 35 U.S.C. § 102(e) rejections for claims 1, 3, 7, 8, 10, 14, 15, 17 and 21-24.

#### **Obviousness Rejections under 35 U.S.C. §103(a)**

Applicant respectfully requests reconsideration of the 35 U.S.C. § 103(a) rejections of dependent claims 2, 9, and 16 as being unpatentable over Hipp in view of U.S. Patent No. 6,324,177 to Howes et al. As discussed above, Hipp does not disclose each and every feature of amended independent claims 1, 8, and 15. As such, Hipp in view of Howes et al. do not raise a *prima facie* case of obviousness against any of dependent claims 2, 9, and 16. Accordingly, the Applicant respectfully requests the Examiner to withdraw the 35 U.S.C. § 103(a) rejections for claims 2, 9, and 16.

**Conclusion**

In view of the foregoing, the Applicant respectfully submits that all the pending claims 1-3, 7-10, 14-17, and 21-26 are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested. If the Examiner has any questions concerning the present Amendment, the Examiner is requested to contact the undersigned at (408) 774-6924. If any additional fees are due in connection with filing this Amendment, the Commissioner is also authorized to charge Deposit Account No. 50-0805 (Order No. SUNMP584). A duplicate copy of the transmittal is enclosed for this purpose.

Respectfully submitted,  
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